

#113
11/01/22

(R-2023-148)

RESOLUTION NUMBER R- 314420
DATE OF FINAL PASSAGE NOV 14 2022

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING THE SETTLEMENT BETWEEN
INDEMNITY COMPANY OF CALIFORNIA AND THE CITY
OF SAN DIEGO

WHEREAS, on February 7, 2019, Plaintiff Indemnity Company of California filed suit against the City of San Diego, alleging breach of contract related to the construction of the Central Avenue Mini Park and Skate Park projects, entitled *Indemnity Company of California v. City of San Diego, et al.* San Diego Superior Court Case No. 37-2019-00007351-CU-BC-CTL; and

WHEREAS, in closed session on March 15, 2022, the City Council, by the following votes: Yeas, Districts 1, 2, 3, 4, 6, 7, 8, and 9; Nays, none; Absent, District 5, approved settlement of Plaintiff's breach of contract claims in the sum of \$185,000.00; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego that the Council:

1. Authorizes the Mayor or his designee to pay the sum of \$185,000 from Public Liability Fund No. 720045, in settlement of every claim for damages, interest, costs, and fees of any type, including attorney fees, against City of San Diego, its agents and employees, arising from the breach of contract complaint filed by Plaintiff Indemnity Company of California.

2. Authorizes the Chief Financial Officer to expend an amount not to exceed \$185,000 from Public Liability Fund No. 720045, for the purpose of settling this claim.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Jon E. Taylor
Jon E. Taylor
Deputy City Attorney

JET:sb
September 20, 2022
Or.Dept: City Attorney
CC No. 3000015166
Doc. No.: 3094455

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of NOV 01 2022.

ELIZABETH S. MALAND
City Clerk

By Kayshila Medina
Deputy City Clerk

Approved: 11/10/22
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

The City of San Diego
COMPTROLLER'S CERTIFICATE

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING

CC 3000015166

DEPT. NO. 1211

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: \$185,000.00

Purpose: Settlement of Indemnity Co. of CA v. City of San Diego coordinated with ICC v. APR Construction, Inc., San Diego Superior Court Case Nos. 37-2019-00007351 and 37-2018-00010633; Risk No. 13794

Date: October 11, 2022

By: Christopher Purcell *Christopher Purcell*
 COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original Amount
1	720045			OTHR-00000000-GG	512007	1515	1515000011		\$185,000.00
TOTAL AMOUNT									\$185,000.00

FUND OVERRIDE

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: _____

Vendor: _____

Purpose: _____

Date: _____

By: _____
 COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original Amount
TOTAL AMOUNT									

FUND OVERRIDE

Passed by the Council of The City of San Diego on NOV 01 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage NOV 14 2022

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Jenstella Medina, Deputy

Office of the City Clerk, San Diego, California
314420
Resolution Number R-_____